GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri V. Sahadeva Reddy, S/o late V.Govinda Reddy, Peddakalavapalli, Yendapalli, Rayachoti, YSR Kadapa District against the Proceedings dt.03.08.2018 of the Collector& District Magistrate, Anantapuramu District cancelling his ST 'Konda Kapu' Community Certificate under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.22. Dated: 06.04.2022

Read the following: -

1. Proceedings of the Collector& District Magistrate, Anantapuramu, Rc.No.MC3/11124/08/2011, dt.03.08.2018.
2. Orders, dt.12.02.2019 of the Hon'ble High Court of AP in W.P.No.36644/2018 filed by the Appellant i.e., Sri V. Sahadeva Reddy.
3. Appeal Petition filed by Sri V. Sahadeva Reddy before the Government, through his Counsel on 18.03.2019.
4. Orders, dt.29.03.2019 of the Hon'ble High Court of AP in W.P.No.4343/2019 filed by the Appellant Sri V. Sahadeva Reddy.
5. Govt. Memo No.SW0CERT(CSTC)-9/CV.2/2019, Dated. 27.08.2019.
6. From the Collector & District Magistrate, Anantapuramu, Lr.Rc.No.MC3/11124/2011, dt.12.09.2019.
7. Govt. Memo No.846274/CV.2/2019, Dated: 04.03.2022.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, Ananthapuramu has issued orders cancelling the ST 'Konda Kapu' Community Certificate issued to Sri V. Sahadeva Reddy, S/o late V.Govinda Reddy, Conductor, Peddakalavapalli, Yendapalli, Rayachoti, YSR Kadapa District.

2. Aggrieved by above, vide reference 2nd read above, the Appellant has filed WP No.36644 of 2018 seeking to declare the Proceedings issued in the reference 1st read above is illegal and arbitrary and consequently direct the respondents to extend all the consequential benefits. The Hon'ble High Court in its orders dt.12.02.2019 in WP No.36644 of 2018 while disposing the WP has directed that the appellant can file an appeal before the Appellate Authority against the Proceedings, dt.03.08.2018 of the Collector & District Magistrate, Ananthapuramu within a period of four weeks. Further, directed the Appellate Authority to consider the appeal filed by the Petitioner and pass appropriate orders in accordance with law.

3. Accordingly, vide 3rd read above, Sri V. Sahadeva Reddy, S/o late V.Govinda Reddy has filed Appeal Petition, dt.18.03.2019through his Counsel before the Government as per the directions of the Hon'ble High Court in WP.No.36644 of 2018, dated 12.02.2019, against the Proceedings, dt.03.08.2018 of the Collector & District Magistrate, Ananthapuramu duly submitting grounds in support of his claim of ST 'Konda Kapu' Community Certificate and prayed to set aside the above said Proceedings of the Collector & District Magistrate, Ananthapuramu. As the matter stood thus, the Appellant has again filed a WP No.4343 of 2019 against the Appellate Authority for not granting interim suspension of the operation of the Proceedings, dt.03.08.2018 of the Collector & District Magistrate, Ananthapuramu, pending disposal of Appeal Petition, dt.18.03.2019 filed by him. The Hon'ble High Court in its orders dt.29.03.2019 in WP No.4343 of 2019 while granting the interim suspension of the Proceedings, dt.03.08.2018 of the Collector & District Magistrate, Ananthapuramu has directed the Appellate Authority to consider the appeal petition filed by appellant and dispose the same on merits and in accordance with law within a period of four weeks vide reference 4th read above.

4. After examining the said Appeal Petition, Government have admitted the said appeal petition and have called for the para-wise remarks on the grounds filed by the Appellant along with connected records from the Collector & District Magistrate, Ananthapuramu vide Memo 5th read above. In reply to above, the Collector & District Magistrate, Ananthapuramu has furnished the same on the Appeal Petition filed by Appellant vide reference 6th read above.

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5. The said Appeal Petition has been posted for hearing on 12.03.2022 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel of the Appellant vide Memo 7th read above. The Son of the appellant and Counsel of the Appellant have attended the said hearing on 12.03.2022 and have filed written arguments. On perusal of the Written arguments, records/ the copies of evidences/ academic record/ grounds filed by the Appellant and his son and the Proceedings, dt.03.08.2018 of the Collector & District Magistrate, Ananthapuramu and further the para-wise remarks submitted by the Collector, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support of his claim of "ST Konda Kapu" community are as follows:

1. The proceedings of the respondent is contrary to law, weight of evidence and probabilities of the case.
2. The proceedings of the respondent is contrary to the provisions of AP (SCs, STs & BCs) Regulation of Issue of Community Certificates Act, 1993 and AP (SC, ST & BCs)Issue of Community, Nativity and Date of Birth Certificates Rules, 1997.
3. The Proceedings in R.C. No. MC3/11124/08/2011 dated.03.08.2018 of Collector & District Magistrate, Ananthapuramu is illegal and arbitrary and as the orders have been passed without any proceedings or documentary evidence furnished by the persons whose names referred in the proceedings.
4. The Proceedings of the Collector and the report of the District Level Scrutiny Committee does not disclose the opportunity to the appellant herein except referring hearsay evidence in the absence of the appellant herein.
5. It is submitted that the copy of the complaint said to have been made on 24.09.2011 as well as 23.01.2012 as referred in the impugned Proceedings are not furnished to the appellant. Further no witness was examined in the presence of appellant to prove the allegations against the appellant. The impugned proceedings and Notification passed by the Collector is in utter violation of Principles of Natural Justice and the said proceedings and notification are not sustainable under law.
6. The proceedings of the respondent does not disclose the examination of the certificate issued by the educational institution to ascertain the fact duly giving the opportunity to the appellant and no reasons were assigned for the cancellation of the caste certificate issued by the then MRO, Talupula, Ananthapuram, dated 04.10.1988.
7. The proceedings of the Collector discloses that the respondent has considered 24 documents under the head "read", but those documents were neither furnished to the appellant along with the impugned proceedings nor before issuing the said proceedings, thereby the respondent has not followed the Principles of Natural Justice as well as the provisions of the Act and the Rules.
8. The impugned proceedings which shows the appellant was issued notice under Form-VI of the Act, without furnishing the documents relied on by the respondent authority and no opportunity was given to the appellant to produce his evidence to prove his case. The burden of proof for cancellation of ST Certificate is also lies on the respondent authority, since the certificate was obtained on 04.10.1988 and the persons, who were residing in the said locality were not examined and no opportunity was given to the appellant for cross examining them. The Rule-6 of the Rules deals with the burden of proof relating to Form-I and II for issuance of certificate only.
9. The Respondent authority has not granted time to adduce evidence by the appellant and the Joint Collector and Chairman, DLSC, Ananthapur has convened the meeting for the verification of the caste status of the appellant. The appellant has also submitted TC issued by the Sri Balaji Junior College, Rachapally. The petitioner was not given opportunity to adduce his other evidence including the evidence of M.Narayana Reddy, Sb late M. Venkata Reddy, R/o.28/6/738, Hamali Colony, Near RTO Office, Housing Board, Ananthapuram, who was retired from the army and has been working in railways and who is known to be the family of the appellant.
10. The affidavit filed in WP No.36644 of 2018 may be read as part and parcel of this grounds.

II. The Collector & District Collector, Ananthapuramu, has furnished the following remarks on the above grounds are as follows:

1. Sri V.Sahadeva Reddy, S/o V.Govinda Reddy is resident of PeddakalvaPalli, Rayachoti Taluk of Y.S.R. District who was working as Conductor, E.No.405361 in APSRTC KadiriDepot. He is native of Gudalgondi H/o Obulareddipalli village of

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Talupula Mandal and he obtained "Konda Kapu" (ST) caste certificate by the then Mandal Revenue Officer, Talupula by mis-representation of facts. His younger sister Smt V.Syamalamma married one Suram Narayana Reddy, S/o Venkata Reddy, resident of Gudalagondi H/o Obulareddipalli village, Talupula Mandal belongs to Kapu caste which comes under OC category. As such, petitioner alone could not be considered as Konda Kapu (ST) caste.

"According to List of Socially and Educationally Backward Classes in A.P (As per G.O.Ms.No.58, Social Welfare (J) Department., dated:12.05.1997), all Revenue officials i.e, Revenue Divisional Officers / Sub Collector I Asst. Collector in the State are competent to issue Konda Kapu (ST) caste certificate".

As such, the Revenue Divisional Officer, Penukonda was competent to issue "Konda Kapu" (ST) caste certificate to the petitioner. But, in the instant case, it is clearly known that the petitioner has got false caste certificate from the then Mandal Revenue Officer, Talupula by suppressing the facts. By utilizing the said caste certificate, he got the job in APSRTC under reservation category of ST caste. Hence, the case was referred to DLSC, Ananthapuramu for its detailed enquiry and its findings. After pursuing the 'Findings of the District Level Scrutiny Committee, Ananthapuramu' it is found that there are no valid substantial reasons to accept that the petitioner as he belongs to "Konda Kapu" (ST) community and therefore in exercise of Powers conferred under sub-rule (7) of Rule 9 of A.P. S.Cs, STs and BCs - Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 issued in G.O.Ms.No.58, S.W.(J) department, dated:12-5-1997 read with U/s 5(1) of A.P.SC/ST/BCs Regulation of issue of Community certificates Act 16/93, the fraudulent "Konda Kapu" (ST) caste certificate obtained by petitioner was cancelled.

2. In the proceedings of the District Collector, Ananthapuramu issued for cancellation of "Konda Kapu" (ST) caste certificate obtained by the petitioner vide Rc.No.MC3/11124/08/2011, dated: 03.08.2018. In the said proceedings, 24 numbers of references mentioned in "Read" column which indicating the correspondence made in respect to the discreet enquiry of the caste certificate viz., issue of notices, calling reports from the concerned authorities as well as obtained enquiry reports from the concerned Tahsildar, RDO, Notices in different dates issued inviting to the enquiry etc., Each and every reference mentioned in the proceeding was communicated to the petitioner. The present petitioner is well aware about the said references as he received notices issued by their office. During the DLSC., the petitioner has attended by making sign in attendance sheets of DLSC. Accordingly, he was responded to the DLSC. Hence, the contents of the petitioner is baseless.
3. Each and every reference mentioned in the Notice-IV of the Act were furnished to the petitioner and he is well aware about the matter in each reference. According to Section (6) of A.P. (SC, ST & BC) Regulation of issue of Community Certificates Act,1997, (Act No.16 of 1993), burden of proof lies on the claimant i.e., Appellant only.But, the Appellant failed to prove his caste claimed as "Konda Kapu-ST". He was produced only one documentary evidence in enquiry i.e., caste certificate "Konda Kapu-ST" issued by the then Mandal Revenue Officer, Talupula Mandal. Except this, he has not having any documentary / material evidences in support of his caste community. Sufficient opportunity was given to the petitioner to prove his caste status during the enquiry, but he did not produced the said evidence viz., M. Narayana reddy and others during enquiry.
4. On receipt of letter from the APSRTC, detailed enquiry has been conducted under provisions of the act & rules and conclusion of the enquiry clearly established that the petitioner has got false "Konda Kapu" (ST) caste certificate from the then Mandal Revenue Officer, Talupula by suppressing the facts. By utilizing the said caste certificate, he got the job in APSRTC under reservation category of ST caste. Further, the petitioner might have managed with the staff of Sri Balaji Junior College, DK Rachapally, Kadapa District duly mentioning the Konda Kapu (ST) in the caste column of his educational Transfer certificate.
5. As per Sec 6 of A.P.SCs, STs and BCs-Issue of Community, Nativity land Date of Birth Certificates Rules, 1997, it is the responsibility of the applicant to produce necessary evidence / documents while applying in Form I/II to the Competent Authority and also as called for by the Competent Authority/Scrutiny and Review Committee at the State level/District Collector from time to time, while enquiring in to the claims for the issue of Community, Nativity and Date of Birth Certificate. But, he failed to produce or adduce record of evidence and other documents to prove that he belongs to Konda Kapu-ST. Hence, the contents of the petitioner are baseless.

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6. The outcome of the enquiry report of DLSC as well as other enquiry reports of the Tahasildar, Kadiri, RDO, Kadiri and the District Tribal Welfare Officer, Anantapuramu reveals that the present petitioner is native of Talupula Mandal. The Petitioner's fore fathers as well as his blood relatives and nearby relatives are not belongs to Konda Kapu Caste-ST, they are all belongs to Kapu Caste only. The family members of the Petitioner are not following any traditions and culture etc., of Konda Kapu-ST Caste. While it is so, the petitioner along obtained his caste certificate from the then MRO, Talupula Mandal as he belongs to Konda Kapu-ST Caste, even though he is Kapu-OC Caste. Similarly, the petitioner parents intelligently entered "Konda Kapu-ST Caste while joining him in School. The authority examined the case in aspect that his caste mentioned in transfer certificate as Konda Kapu-ST and came to conclude that it is manipulated only and it is not satisfied to claim his caste as Konda Kapu-ST.

III. Finally, the Appellate Authority has observed /opined that;

1. During the course of hearing that the appellant submitted his arguments as per his grounds in appeal petition and have stated that the lower authority failed to consider the relevant documents such as the certificate of educational institution and if the same may be consider that it can be concluded that he belongs to ST community and further stated that the lower authority is not competent to ascertain the status of the appellant.
2. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record, it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that he belongs to ST Community and moreover that the lower authority carefully consider all the documents produced by the appellant and came to a conclusion that the appellant does not belongs to ST community.
3. That as per the act that the burden of proving that the appellant belongs to particular cast shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the lower authority.
4. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference and accordingly the Proceeding is hereby upheld and the appeal petition is hereby dismissed.

6. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1997 (Act No.16 of 1993), decide that the proceedings dt.03.08.2018 of the Collector & District Magistrate, Ananthapuramu does not deserve any interference, hence, the same are hereby upheld duly dismissing the appeal petition filed by Sri V. Sahadeva Reddy, Conductor, Peddakalavapalli, Yendapalli, Rayachoti, YSR Kadapa District and the caste certificate issued by the then Tahsildar, Talupula is deemed to be cancelled.

7. The Collector & District Magistrate, Ananthapuramu is directed to take necessary consequential action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, Ananthapuramu.

Sri V. Sahadeva Reddy,
S/o late V. Govinda Reddy,
R/o H.No.14/12, Peddakalavapalli, Yendapalli,
Rayachoti, YSR Kadapa District.

[Contd..on P.4]

M/s Sri V. Padmanabha Rao,
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Copy to:

The Depot Manager, APSRTC, Kadiri, Anantapuramu District.

The PS to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).
Sf/Sc (E 846274)

// FORWARDED: BY ORDER //

SECTION OFFICER